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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,784	05/01/2001	Rolf Lakomy	2345/153	3669
26646	7590	03/05/2007	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			MILEF, ELDA G	
			ART UNIT	PAPER NUMBER
			3692	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/830,784	LAKOMY ET AL.
	Examiner	Art Unit
	Elda Milef	3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 January 2007.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
  - 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 6-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-8, 10-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mean (Meandzija, US Patent No. 6,170,005) in view of Chaney (WO 96/07267)

**Re claim 6:** Mean discloses:

controlling a right-of-access by a customer through a service center, in response to a request from the service provider to the service center, using the specifically assigned EMM clearing signal by performing:

(ii.) a direct clearing operation by sending the specifically assigned EMM clearing signal from the service center, with an assistance of a data transmission service in a

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digital broadcasting service, to the security module to clear the customer.

("The method allows a management entity component, such as a computer workstation operated at a control center, to coordinate the actions of different agent components, such as hardware used at the headend or uplink site of a television network. In particular, the agent components may be hardware (e.g., including firmware and software) used to provide conditional access to a television signal.")-see col. 2 lines 44-51 and ("the output mux 280 may be an MPEG transport stream which includes various other types of data...The output of the scrambler 285 comprises CA data that is subsequently transmitted to an end user, e.g., via CATV network or digital satellite broadcast network. The synchronizer 270 times the multiplexing of the private data from component 230, EMMs from component 240, ECMs from component 220, and control words from component 275...")-see col. 15 line 64-col. 16 line 25, also see cols.3-4;

Although Mean discloses conditional access -see cols. 1-4, and EMMs appended to various programming services to authorize the decoders to receive particular programming services-see col. 15 lines 46-53, Mean does not explicitly disclose the assignment of the EMM clearing signal to the security module (smart card). Chaney however, teaches ("Entitlement management involves

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modifying information stored in the card that specifies the card owner's entitlements ...The processor adds and deletes entitlements in response to entitlement information in entitlement management messages (EMM) that are included in the input signal...")-see p. 2 lines 11-21, pp. 5-6. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mean to include adding/deleting entitlements via EMMs that are included in the input signal and stored in a "smart card" as was taught by Chaney in order to store information relating to the limited access to programs on pay-TV systems.

**Re claim 7:** Mean does not disclose:

wherein an electronically stored, service-specific credit balance is allocatable in monetary units to the security module.

Chaney however teaches ("A card is issued to a user with initial entitlement information stored...Entitlement information may include data identifying the user and data specifying the scope of initial access entitlement (e.g., duration and/or specific programs the user has paid for)...EMM includes information indicating subscription (long term access) and pay-per-view (single program access) services that the user has paid for.")-see p. 5 line 29- p. 6 line 10. It would have been

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obvious to one having ordinary skill in the art at the time the invention was made to modify Mean to include storing data on the smart card relating to programs that have been paid for by the user in order to determine if the user paid for a service and therefore has access to that service.

**Re claim 8:** Mean discloses:

wherein in the indirect clearing operation of the security module of a querying customer, the data transmission service is provided by one of a fixed-line modem, a Global System for Mobile Communications (GSM) modem and a GSM-service Management System (GSM-SMS) modem. -see ("modem")-col. 16 lines 47-56.

**Re claim 10:** Mean discloses:

wherein the chargeable service includes at least one of a pay TV service, a digital radio broadcasting service, a digital video broadcasting service, a service of a Society for Worldwide Interbank Financial Telecommunications and a video-on-demand service. -see col. 2 lines 52-55, col.4 lines 11-14.

**Re claims 11-13, 15:** Further a system would have been necessary to perform the method of previously rejected claims 6-

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8,10 and are therefore rejected using the same art and rationale.

2. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mean in view of Chaney as in claim 5 above and further in view of Hayes (US Patent No. 6,295,448)

**Re claim 9:** Mean and Chaney do not specifically disclose an approximate location of the querying customer is found with the assistance of at least one of a digital cellular network and a mobile telephony network. Hayes however, teaches ("In this embodiment of the present invention, the communication path and the communication format are initially assigned to the mobile telephone(s) 100 and the device(s) 110 either by preprogramming according to the fixed assignment described in FIG. 1 and FIG. 2 or by assignment from the mobile telephone system 120...The selection can be based on any criteria including, but not limited to, the time of day, day of the week or geographic location of the mobile telephone(s) or other device(s)..."). -see col. 9 line 62-col. 10 line 11. Also, see col. 8 lines 24-52, cols. 2,5, FIGs. 2-8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mean and Chaney to include determining the geographic

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location of the mobile telephone as was taught by Hayes in order to effectuate unidirectional and bidirectional communication directly between a mobile telephone and another device such as entertainment equipment interfaces.

Mean discloses the specifically assigned EMM clearing signal for clearing the querying customer is only routed into a digital broadcasting network ("At least one of the first and second agent components may be a conditional access agent component for inserting conditional access data, such as EMMS and ECMS, into the digital broadcast stream.")-see col. 4 lines 11-14, and col. 2 line 65-col.3 line 2.

Mean and Chaney do not specifically disclose in which the querying customer is situated at a time of a call and ordering of the specifically assigned EMM clearing signal. Hayes discloses the identification of the cellular phone location and time of day as shown above, and Hayes discloses determining a communication path and communication format to be assigned to the mobile telephone and the device. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to specifically assign an EMM clearing signal as shown by Mean to the communication path and format to be assigned as shown by Hayes in order to initiate communication directly between the mobile telephone and the other device.

**Re claim 14:** Further a system would have been necessary to perform the method of previously rejected claim 9 and is therefore rejected using the same art and rationale.

***Response to Arguments***

3. Applicant's arguments filed 1/8/2007 have been fully considered but they are not persuasive.

Regarding claims 5 and 10, the Examiner is assuming that the applicant is referring to the current claims 6 and 11. The applicant suggests that Meandzija and Chaney do not teach or suggest the security focus of the present invention.

The applicant is claiming a conditional access system controlling right of access by a customer. The applicant's attention is directed to columns 1-4 of Mean wherein conditional access is disclosed, and p.2, 5-6 of the Chaney reference which teaches entitlement management and card owner entitlements.

In response to applicant's argument that Meandzija and Chaney are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

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See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Meandzija and Chaney both deal with information exchange between communication components utilizing signals.

***Conclusion***

**4. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

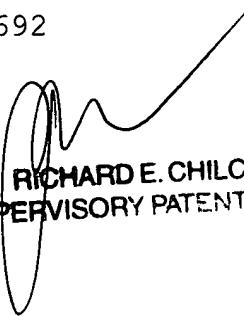
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Thursday 8:30 am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571)272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elda Milef  
Examiner  
Art Unit 3692

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RICHARD E. CHILCOT, JR.  
SUPERVISORY PATENT EXAMINER